

Fiscal Estimate - 2009 Session

☒ Original
 ☐ Updated
 ☐ Corrected
 ☐ Supplemental

LRB Number 09-2979/3	Introduction Number SB-303	
Description Requesting a person who operates a vehicle that is involved in an accident that causes death or injury to submit to a test for intoxication		
Fiscal Effect State: <div style="display: flex; justify-content: space-between;"> <div style="width: 30%;"> <input type="checkbox"/> No State Fiscal Effect <input checked="" type="checkbox"/> Indeterminate <input type="checkbox"/> Increase Existing Appropriations <input type="checkbox"/> Decrease Existing Appropriations <input type="checkbox"/> Create New Appropriations </div> <div style="width: 30%;"> <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Decrease Existing Revenues </div> <div style="width: 35%;"> <input type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Decrease Costs </div> </div> Local: <div style="display: flex; justify-content: space-between;"> <div style="width: 30%;"> <input type="checkbox"/> No Local Government Costs <input checked="" type="checkbox"/> Indeterminate 1. <input type="checkbox"/> Increase Costs 3. <input type="checkbox"/> Increase Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 2. <input type="checkbox"/> Decrease Costs 4. <input type="checkbox"/> Decrease Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory </div> <div style="width: 65%;"> 5. Types of Local Government Units Affected <div style="display: flex; justify-content: space-between;"> <div style="width: 30%;"> <input type="checkbox"/> Towns <input type="checkbox"/> Counties <input type="checkbox"/> School Districts </div> <div style="width: 30%;"> <input type="checkbox"/> Village <input type="checkbox"/> Others <input type="checkbox"/> WTCS Districts </div> <div style="width: 35%;"> <input type="checkbox"/> Cities </div> </div> </div> </div>		
<div style="display: flex; justify-content: space-between;"> <div style="width: 50%;"> Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS </div> <div style="width: 45%;"> Affected Ch. 20 Appropriations </div> </div>		
Agency/Prepared By DA/ Phil Werner (608) 267-2700	Authorized Signature Tom Herman (608) 266-0239	Date 9/30/2009

Fiscal Estimate Narratives

DA 9/30/2009

LRB Number	09-2979/3	Introduction Number	SB-303	Estimate Type	Original
Description Requesting a person who operates a vehicle that is involved in an accident that causes death or injury to submit to a test for intoxication					

Assumptions Used in Arriving at Fiscal Estimate

Should this bill be enacted, prosecutors anticipate only a minor fiscal impact on the DA Program.

Long-Range Fiscal Implications

Prosecutors expect a small long-term fiscal impact should this bill be enacted.

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<div style="display: flex; justify-content: space-between;"> <div> Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS </div> <div> Affected Ch. 20 Appropriations </div> </div>		
Agency/Prepared By DOJ/ Mark Rinehart (608) 264-9463	Authorized Signature Mark Rinehart (608) 264-9463	Date 11/6/2009

Fiscal Estimate Narratives

DOJ 11/6/2009

LRB Number	09-2979/3	Introduction Number	SB-303	Estimate Type	Original
Description					
Requesting a person who operates a vehicle that is involved in an accident that causes death or injury to submit to a test for intoxication					

Assumptions Used in Arriving at Fiscal Estimate

The Department of Justice does not anticipate a fiscal impact due to the enactment of 2009 Senate Bill 303.

Long-Range Fiscal Implications

Fiscal Estimate - 2009 Session

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Description Requesting a person who operates a vehicle that is involved in an accident that causes death or injury to submit to a test for intoxication			
Fiscal Effect			
State:			
<input type="checkbox"/> No State Fiscal Effect			
<input checked="" type="checkbox"/> Indeterminate			
<input type="checkbox"/> Increase Existing Appropriations		<input type="checkbox"/> Increase Existing Revenues	
<input type="checkbox"/> Decrease Existing Appropriations		<input type="checkbox"/> Decrease Existing Revenues	
<input type="checkbox"/> Create New Appropriations		<input type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget	
		<input type="checkbox"/> Yes <input type="checkbox"/> No	
		<input type="checkbox"/> Decrease Costs	
Local:			
<input type="checkbox"/> No Local Government Costs			
<input checked="" type="checkbox"/> Indeterminate			
1. <input type="checkbox"/> Increase Costs		3. <input type="checkbox"/> Increase Revenue	
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory		<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	
2. <input type="checkbox"/> Decrease Costs		4. <input type="checkbox"/> Decrease Revenue	
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory		<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	
5. Types of Local Government Units Affected			
<input type="checkbox"/> Towns		<input type="checkbox"/> Village <input type="checkbox"/> Cities	
<input type="checkbox"/> Counties		<input type="checkbox"/> Others	
<input type="checkbox"/> School Districts		<input type="checkbox"/> WTCS Districts	
Fund Sources Affected		Affected Ch. 20 Appropriations	
<input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS			
Agency/Prepared By		Authorized Signature	Date
DOT/ Dennis Hughes (608) 267-9075		Julie Johnson (608) 267-3703	10/6/2009

Fiscal Estimate Narratives

DOT 10/6/2009

LRB Number	09-2979/3	Introduction Number	SB-303	Estimate Type	Original
Description Requesting a person who operates a vehicle that is involved in an accident that causes death or injury to submit to a test for intoxication					

Assumptions Used in Arriving at Fiscal Estimate

State law [s.346.71(2)] requires all fatally injured drivers to be tested for the presence of alcohol or other drugs. In addition, Federal law requires drivers of commercial motor vehicles who survive a fatal crash to be tested for the presence of alcohol or other drugs, with the test results to be kept on file by their employer. The State's Implied Consent law [s.343.305] gives law enforcement officers discretion to request a driver submit to a chemical test if there is probable cause to believe the driver was operating while impaired OR if the driver was involved in a crash resulting in a fatality or great bodily harm and alcohol or other drugs are present at the crash scene.

SB-303 would expand the Implied Consent law in two ways:

- 1) Any driver involved in an injury crash (regardless of the severity of the injury) may be requested to submit to a chemical test if the officer detects the presence of alcohol or another drug (regardless of probable cause to believe the driver was operating while impaired)
- 2) Any driver involved in a crash resulting in death or great bodily harm may be requested to submit to a chemical test if the officer reasonably believes the driver violated any state or local traffic law

SB-303 would also amend the "Informing the Accused" form, which is read to a driver by an officer when requesting a breath, blood or urine sample for chemical testing.

SB-303 would broaden discretion of law enforcement to request chemical tests to more completely identify drivers in violation of impaired driving or other alcohol-related traffic laws. These include not only drivers at/above the 0.08 percent prohibited alcohol concentration (AC) limit for 1st thru 3rd offense OWI, but also drivers subject to lower alcohol limits, such as 0.00 AC for drivers under age 21 and drivers of commercial motor vehicles, and 0.02 AC for drivers with 3 or more prior OWI convictions, as well as drivers with any detectable amount of a controlled substance.

Based on 2006-2008 data, on average, about 49,000 surviving drivers are involved each year in injury crashes that do not result in a fatality or serious injury. Under SB-303, each of these 49,000 drivers would be subject to a request for a chemical test IF an officer detects the presence of alcohol or other drug at the crash scene. An unknown number of these drivers already qualify for a chemical test request based on current Implied Consent law (i.e. the officer had probable cause to believe the driver was impaired).

Based on 2006-2008 data, on average, about 5,200 surviving drivers are involved each year in fatal or serious injury crashes. Under SB-303, each of these 5,200 drivers would be subject to a request for a chemical test IF an officer had reason to believe they violated any traffic law. Based on 2004-2007 data, 44% of drivers who survived fatal crashes were tested; an unknown number of drivers involved in serious injury crashes were tested. An unknown proportion of these drivers already qualify for a chemical test request based on current Implied Consent law (i.e. the officer had probable cause OR the presence of alcohol or another drug was detected at the crash scene).

The bill amends the "Informing the Accused" form which would have to be re-printed in quantity and distributed to all law enforcement agencies. This form also resides in the electronic software used by many Wisconsin law enforcement agencies ("Badger TraCS") for crash reporting, so the software package would have to be updated by the Division of Motor Vehicles and distributed to all agencies currently using the software.

Long-Range Fiscal Implications

Indeterminate due to the uncertain number of drivers who would meet the criteria for a chemical test being

requested and the uncertain degree to which law enforcement officer would actually exercise their increased discretion to request a chemical test.

Increased costs would include:

- 1) Cost to state/local law enforcement to acquire breath/blood samples for chemical testing from an unknown increased number of drivers who are not currently tested
- 2) Cost to the Wisconsin State Lab of Hygiene to process additional blood samples
- 3) Cost to local prosecutors (county and municipal), the State Public Defenders Office, and county/municipal courts to adjudicate the increased number of drivers whose positive AC test results would suggest violation of various alcohol-related traffic offenses, ranging from OWI to underage "Not-a-Drop" operation of a motor vehicle
- 4) Cost to DMV to process driver license sanctions for an increase in the number of alcohol-related traffic offenses, as well as an increase in Implied Consent chemical test refusals
- 5) Cost to DMV to revise/print/distribute the "Informing the Accused" form and to update the form within the Badger TraCS software
- 6) Cost to Dept of Corrections and county sheriff department to incarcerate an increased number of criminal OWI offenders

Increased revenues (e.g. forfeitures/fines, related court costs, penalty assessments, jail surcharges, Driver Improvement surcharges) are indeterminate.

Fiscal Estimate Worksheet - 2009 Session

Detailed Estimate of Annual Fiscal Effect

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I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):		
II. Annualized Costs:	Annualized Fiscal Impact on funds from:	
	Increased Costs Decreased Costs	
A. State Costs by Category		
State Operations - Salaries and Fringes	\$	
(FTE Position Changes)		
State Operations - Other Costs		
Local Assistance		
Aids to Individuals or Organizations		
TOTAL State Costs by Category	\$	
B. State Costs by Source of Funds		
GPR		
FED		
PRO/PRS		
SEG/SEG-S		
III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)		
	Increased Rev Decreased Rev	
GPR Taxes	\$	
GPR Earned		
FED		
PRO/PRS		
SEG/SEG-S		
TOTAL State Revenues	\$	
NET ANNUALIZED FISCAL IMPACT		
	State Local	
NET CHANGE IN COSTS	\$	
NET CHANGE IN REVENUE	\$	
Agency/Prepared By	Authorized Signature	Date
DOT/ Dennis Hughes (608) 267-9075	Julie Johnson (608) 267-3703	10/6/2009

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Agency/Prepared By SPD/ Mike Tobin (608) 266-8259	Authorized Signature Krista Ginger (608) 264-8572
Date 9/30/2009	

Fiscal Estimate Narratives

SPD 9/30/2009

LRB Number	09-2979/3	Introduction Number	SB-303	Estimate Type	Original
Description Requesting a person who operates a vehicle that is involved in an accident that causes death or injury to submit to a test for intoxication					

Assumptions Used in Arriving at Fiscal Estimate

The State Public Defender (SPD) is statutorily authorized and required to appoint attorneys to represent indigent defendants in criminal proceedings. The SPD plays a major role in ensuring that the Wisconsin justice system complies with the right to counsel provided by both the state and federal constitutions. Any legislation has the potential to increase SPD costs if it creates a new criminal offense, expands the definition of an existing criminal offense, or increases the penalties for an existing offense.

This bill does not provide for a new criminal offense, expand the definition of a criminal offense, or increase criminal penalties. The bill would broaden the circumstances under which a law enforcement officer may invoke the implied-consent law, which requires a driver to submit to a chemical test for alcohol. The test helps to determine whether the driver should be charged with operating under the influence of alcohol or controlled substances (OWI). The broader circumstances for requiring the test would apply following an accident involving death or injury.

The bill could increase the SPD workload in two ways. First, the bill could result in additional criminal cases if chemical tests are obtained that show a prohibited alcohol concentration or the presence of a controlled substance. The SPD's average cost to provide representation with a private bar attorney in a misdemeanor case is \$214.11, calculated on the basis of the SPD's average cost per case in fiscal year 2009. The SPD's average cost per felony appointed to private bar attorneys was \$584.62 for the same fiscal year. Based on the annual caseloads specified for budgeting purposes under § 977.08(5), Stats., it would be more cost effective to add staff attorney positions if a significant number of SPD cases resulted from this provision of the bill.

Second, because probation or prison could be ordered upon conviction for a felony crime, this change would indirectly lead to additional cases in which the Department of Corrections (DOC) would seek to revoke probation or extended supervision. Probation is an also option for misdemeanor cases. The SPD provides representation in proceedings commenced by the Department of Corrections (DOC) to revoke supervision. Thus, the bill would indirectly increase the number of cases in which the SPD appoints attorneys in revocation proceedings. The average cost during fiscal year 2009 for SPD representation by a private bar attorney in a revocation proceeding was \$382.18. Based on the annual caseloads specified for budgeting purposes under § 977.08(5), Stats., it would be more cost effective to add staff attorney positions if a significant number of SPD cases resulted from this provision of the bill.

The SPD has no data to predict the number of additional criminal cases or revocation proceedings that would occur as a result of the proposed changes.

Counties are also subject to increased costs when a new crime is created. There are some defendants who, despite exceeding the SPD's statutory financial guidelines, are constitutionally eligible for appointment of counsel because it would be a substantial hardship for them to retain an attorney. The court is required to appoint counsel at county expense for these defendants. Thus, the counties may experience increased costs attributable to additional criminal cases.

Long-Range Fiscal Implications